

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.369 OF 2006
IN
CRIMINAL APPLICATION NO.1100 OF 2006

Kusum J.Sarvaiya	.. Applicant.
Vs.	
UCO Bank and Anr.	.. Respondents.

Mr.N.V.Gangal i/b Ms.Nisha Valani for the applicant.
Mr.Kedar Dighe and Mr.Vishal Kandarkar for respondent
no.1.

CORAM : D.B.BHOSALE, J.

DATED : 5th JUNE, 2006

P.C.:

. Heard learned counsel for the parties.

2. By this application the applicant seeks to suitably modify the order dated 19.4.2006 passed on Criminal Application No.1100 of 2006 by which the applicant was directed to pay entire due amount with accrued interest to the UCO Bank within a period of six weeks from 19.4.2006 i.e. on or before 31.5.2006. The applicant is also seeking permission to relieve him from undertaking dated 25.4.2006 until the expiry on 12.7.2006. The order dated 19.4.2006 reads thus:

"1. Not on board. Mentioned out of turn. Advocate for the applicant states that the applicant is ready and willing to deposit the entire amount due with accrued interest to the UCO Bank within six weeks from today and willing to file undertaking to that effect in

this Court within a period of one week. In view of the statement made, issue notice to the respondents returnable on 5.6.2006. If the undertaking is not filed within one week from today, the matter to stand dismissed without further orders of this Court and respondent no.1-bank will be entitled to take possession. Liberty to respondent no.1-bank to move early. In the meanwhile, there will be ad-interim relief in terms of prayer clause (b) until further orders. Authenticated copy be furnished."

3. The applicant, accordingly, filed undertaking on 25.4.2006 stating therein that she shall pay sum of Rs.56,85,431.83 with interest approximately Rs.9.5 Lakhs till 31.5.2006. It appears that the applicant has not paid the amount as stated in the affidavit dated 25.4.2006 hence this application. Mr.Gangal, learned counsel for the applicant submits that the applicant is present in the Court and he has kept ready three post dated cheques to be handed over to respondent no.1.

4. Mr.Dighe, learned counsel for the respondent-bank, on instructions from the officer, who is present in the Court states that they have no objection for accepting the cheques and for extending time till 15th July, 2006.

5. In view thereof Mr.Gangal, learned counsel for the applicant handed over all the three cheques of

balance amount with interest aggregating to Rs.69 Lakhs to Mr.Dighe, learned counsel for the bank, who in turn handed over the cheques to the officer of the respondent-bank. In the circumstances I pass the following order:

(i) The bank shall deposit the cheque on their respective dates and if any of these cheques is dishonoured they shall be at liberty to proceed against the applicant under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002).

(ii) Subject to above the applicant is relieved from her undertaking dated 25.4.2006 until 12.7.2006.

(iii) Subject to above the bank shall not execute the order of attachment till 15.7.2006.

5. The learned counsel for the parties at this stage state that the criminal application itself may be disposed of in the aforesaid terms. The application, accordingly, stands disposed of in the aforesaid terms.

(D.B.Bhosale, J.)